



Reprinted  
February 1, 2006

## HOUSE BILL No. 1158

DIGEST OF HB 1158 (Updated January 31, 2006 6:26 pm - DI 106)

**Citations Affected:** IC 9-29; IC 33-34; IC 33-35; IC 33-37; IC 36-2.

**Synopsis:** Small claims, civil actions, and sheriff's fees. Specifies that the 25% of the judicial salaries fees collected by a Marion County small claims court that is not deposited in the state general fund must be deposited in the general fund of the township in which the small claims court is located. Provides that the small claims service fee and civil action service fee do not apply to garnishee defendants. Creates a \$10 small claims garnishee service fee and a \$10 garnishee service fee, and provides that these fees are to be collected in small claims and civil actions involving more than three garnishees or garnishee defendants. Distributes the fees in the same manner as the small claims service fee and the service fee are distributed. Increases fees a county sheriff may charge for reports issued by the sheriff's office and for service of process for civil actions. Provides that for each verified claim filed by a sheriff for service of writs, orders, process, notices, tax warrants, or other papers completed by the sheriff: (1) a \$13 service process fee is imposed; and (2) the amount that a county fiscal body must appropriate to the sheriff is increased. Adds county sheriffs to the list of county officers entitled to appoint a chief deputy and other deputies and employees. Makes conforming amendments.

**Effective:** July 1, 2006.

**Richardson, Thomas**

January 5, 2006, read first time and referred to Committee on Judiciary.  
January 23, 2006, amended, reported — Do Pass.  
January 31, 2006, read second time, amended, ordered engrossed.

HB 1158—LS 6709/DI 106+



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Reprinted  
February 1, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE BILL No. 1158

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A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 9-29-11-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The main  
3 department, office, agency, or other person under whose supervision a  
4 law enforcement officer carries on the law enforcement officer's duties  
5 may charge a fee that is fixed by ordinance of the fiscal body in an  
6 amount not less than ~~three five~~ dollars (~~\$3~~) (**\$5**) for each report.  
7 (b) The fee collected under subsection (a) shall be deposited in the  
8 following manner:  
9 (1) If the department supplying a copy of the accident report is the  
10 state police department, in a separate account known as the  
11 "accident report account". The account may be expended at the  
12 discretion of the state police superintendent for a purpose  
13 reasonably related to the keeping of accident reports and records  
14 or the prevention of street and highway accidents.  
15 (2) If the department supplying a copy of the accident report is the  
16 sheriff, county police, or county coroner, in a separate account  
17 known as the "accident report account". The account may be

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expended at the discretion of the chief administrative officer of the entity that charged the fee for any purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(3) If the department supplying a copy of the accident report is a city or town police department, in the local law enforcement continuing education fund established by IC 5-2-8-2.

SECTION 2. IC 33-34-8-3, AS AMENDED BY P.L.176-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the \_\_\_\_\_ County Small Claims Court \_\_\_\_\_ Division (with the name of the county and township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the state user fee fund established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2; and

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

**The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited in the township general fund of the township in which the court is located.** The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

SECTION 3. IC 33-35-3-9 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies after June 30, 2005.

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(c) If the party instituting an action or a proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee, **small claims garnishee service fee**, and the small claims service fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

(d) Money paid in advance for costs remaining unexpended at the time a civil action or proceeding is terminated, whether by reason of dismissal or otherwise, must be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions.

SECTION 4. IC 33-37-4-6, AS AMENDED BY P.L.176-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) For each small claims action, the clerk shall collect the following fees:

(1) From the party filing the action:

- (A) a small claims costs fee of thirty-five dollars (\$35); ~~and~~
- (B) a small claims service fee of ten dollars (\$10) for each named defendant **that is not a garnishee defendant; and**
- (C) **if the party has named more than three (3) garnishees or garnishee defendants, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant in excess of three (3).**

(2) From any party adding a defendant **that is not a garnishee defendant**, a small claims service fee of ten dollars (\$10) for each defendant **that is not a garnishee defendant** added in the action.

**(3) From any party adding a garnishee or garnishee defendant, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a small claims garnishee service fee for the first three (3) garnishees named in the action.**

However, a clerk may not collect a small claims costs fee, ~~or~~ small claims service fee, **or small claims garnishee service fee** for a small

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claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee, ~~and~~ small claims service fee, **and small claims garnishee service fee** collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A public defense administration fee (IC 33-37-5-21.2).

(5) A judicial insurance adjustment fee (IC 33-37-5-25).

(6) A judicial salaries fee (IC 33-37-5-26).

(7) A court administration fee (IC 33-37-5-27).

SECTION 5. IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. **(a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff.**

~~(a)~~ **(b)** The sheriff shall collect from the person who filed the civil action a service of process fee of ~~forty sixty~~ dollars ~~(\$40)~~, **(\$60)**, in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

~~(b)~~ **(c)** A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

~~(c)~~ **(d)** The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund.

SECTION 6. IC 33-37-5-28, AS ADDED BY P.L.176-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 28. (a) Except as provided in subsection (c), this section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a).

(b) The clerk shall collect the following:

(1) From the party filing the civil action, a service fee of ten dollars (\$10) for each additional defendant **that is not a garnishee defendant** named other than the first named defendant.

(2) From any party adding a defendant **that is not a garnishee**

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**defendant, a service fee of ten dollars (\$10) for each defendant that is not a garnishee defendant added in the civil action.**

**(3) From a party that has named more than three (3) garnishees or garnishee defendants, a garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant in excess of three (3).**

**(4) From a party adding a garnishee or garnishee defendant, a garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a garnishee service fee for the first three (3) garnishees or garnishee defendants named in the action.**

(c) This section does not apply to an action in which service is made by publication in accordance with Indiana Trial Rule 4.13.

SECTION 7. IC 33-37-4-4, AS AMENDED BY P.L.176-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).
- (5) A public defense administration fee (IC 33-37-5-21.2).
- (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- (7) A judicial salaries fee (IC 33-37-5-26).
- (8) A court administration fee (IC 33-37-5-27).
- (9) A service fee (~~IC 33-37-5-28~~) (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).
- (10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).

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SECTION 8. IC 33-37-7-2, AS AMENDED BY P.L.176-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under

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1 IC 5-2-11.

2 (d) The clerk of a circuit court shall distribute monthly to the county  
3 auditor fifty percent (50%) of the child abuse prevention fees collected  
4 under IC 33-37-4-1(b)(7). The county auditor shall deposit fees  
5 distributed by a clerk under this subsection into the county child  
6 advocacy fund established under IC 12-17-17.

7 (e) The clerk of a circuit court shall distribute monthly to the county  
8 auditor one hundred percent (100%) of the late payment fees collected  
9 under IC 33-37-5-22. The county auditor shall deposit fees distributed  
10 by a clerk under this subsection as follows:

11 (1) If directed to do so by an ordinance adopted by the county  
12 fiscal body, the county auditor shall deposit forty percent (40%)  
13 of the fees in the clerk's record perpetuation fund established  
14 under IC 33-37-5-2 and sixty percent (60%) of the fees in the  
15 county general fund.

16 (2) If the county fiscal body has not adopted an ordinance  
17 described in subdivision (1), the county auditor shall deposit all  
18 the fees in the county general fund.

19 (f) The clerk of the circuit court shall distribute semiannually to the  
20 auditor of state for deposit in the sexual assault victims assistance fund  
21 established by IC 16-19-13-6 one hundred percent (100%) of the sexual  
22 assault victims assistance fees collected under IC 33-37-5-23.

23 (g) The clerk of a circuit court shall distribute monthly to the county  
24 auditor the following:

25 (1) One hundred percent (100%) of the support and maintenance  
26 fees for cases designated as non-Title IV-D child support cases in  
27 the Indiana support enforcement tracking system (ISETS)  
28 collected under IC 33-37-5-6.

29 (2) The percentage share of the support and maintenance fees for  
30 cases designated as IV-D child support cases in ISETS collected  
31 under IC 33-37-5-6 that is reimbursable to the county at the  
32 federal financial participation rate.

33 The county clerk shall distribute monthly to the office of the secretary  
34 of family and social services the percentage share of the support and  
35 maintenance fees for cases designated as Title IV-D child support cases  
36 in ISETS collected under IC 33-37-5-6 that is not reimbursable to the  
37 county at the applicable federal financial participation rate.

38 (h) The clerk of a circuit court shall distribute monthly to the county  
39 auditor **the following:**

40 (1) One hundred percent (100%) of the small claims service fee  
41 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in  
42 the county general fund.

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**(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.**

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under ~~IC 33-37-5-28~~ **IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)** shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

**(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:**

**(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.**

**(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.**

SECTION 9. IC 33-37-7-8, AS AMENDED BY P.L.176-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

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- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug

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countermeasures fees collected under IC 33-37-4-1(b)(6),  
IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

**(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).**

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26 as the city or town share.

SECTION 10. IC 33-37-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a

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1 verified claim of service.

2 (c) From the county share distributed under section 3 or 4 of this  
3 chapter and deposited into the county general fund, the county fiscal  
4 body shall appropriate ~~twelve~~ **thirteen** dollars (~~\$12~~) (**\$13**) for each  
5 verified claim submitted by the sheriff under subsection (b). Amounts  
6 appropriated under this subsection shall be deposited by the county  
7 auditor into the pension trust established under IC 36-8-10-12.

8 SECTION 11. IC 36-2-16-4 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Each of the  
10 following county officers is entitled to appoint one (1) first or chief  
11 deputy, and also may appoint the number of other full-time or part-time  
12 deputies and employees authorized by the county fiscal body:

- 13 (1) The county auditor.
- 14 (2) The county treasurer.
- 15 (3) The county recorder.
- 16 (4) The county superintendent of schools.
- 17 **(5) The county sheriff.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1158, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-29-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The main department, office, agency, or other person under whose supervision a law enforcement officer carries on the law enforcement officer's duties may charge a fee that is fixed by ordinance of the fiscal body in an amount not less than ~~three~~ **five** dollars (~~\$3~~) (**\$5**) for each report.

(b) The fee collected under subsection (a) shall be deposited in the following manner:

(1) If the department supplying a copy of the accident report is the state police department, in a separate account known as the "accident report account". The account may be expended at the discretion of the state police superintendent for a purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(2) If the department supplying a copy of the accident report is the sheriff, county police, or county coroner, in a separate account known as the "accident report account". The account may be expended at the discretion of the chief administrative officer of the entity that charged the fee for any purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(3) If the department supplying a copy of the accident report is a city or town police department, in the local law enforcement continuing education fund established by IC 5-2-8-2."

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 4. IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. **(a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff.**

~~(a)~~ **(b)** The sheriff shall collect from the person who filed the civil action a service of process fee of ~~forty six~~ **sixty** dollars (~~\$40~~) (**\$60**), in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of

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process associated with the civil action in Indiana.

~~(b)~~ (c) A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

~~(c)~~ (d) The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund."

Page 3, after line 14, begin a new paragraph and insert:

"SECTION 6. IC 33-37-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate ~~twelve~~ **thirteen** dollars (~~\$12~~) (**\$13**) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

SECTION 7. IC 36-2-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Each of the following county officers is entitled to appoint one (1) first or chief deputy, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body:

- (1) The county auditor.
- (2) The county treasurer.
- (3) The county recorder.
- (4) The county superintendent of schools.
- (5) The county sheriff."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1158 as introduced.)

FOLEY, Chair

Committee Vote: yeas 11, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1158 be amended to read as follows:

Page 2, between lines 41 and 42, begin a new paragraph and insert:  
 "SECTION 3. IC 33-35-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies after June 30, 2005.

(b) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-37-7-12. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(c) If the party instituting an action or a proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee, **small claims garnishee service fee**, and the small claims service fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.

(d) Money paid in advance for costs remaining unexpended at the time a civil action or proceeding is terminated, whether by reason of dismissal or otherwise, must be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of the state's political subdivisions."

Page 3, line 5, strike "and".

Page 3, line 7, delete "." and insert "; and

**(C) if the party has named more than three (3) garnishees or garnishee defendants, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant in excess of three (3)."**

Page 3, between lines 10 and 11, begin a new line block indented and insert:

**"(3) From any party adding a garnishee or garnishee defendant, a small claims garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a small claims garnishee service fee for the first three (3) garnishees named in the action."**

Page 3, line 11, after "fee" insert ",".

Page 3, line 11, strike "or".

Page 3, line 12, after "fee" insert ", or **small claims garnishee service fee**".

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Page 3, line 13, after "fee" insert ",".

Page 3, line 14, strike "and".

Page 3, line 15, after "fee" insert ", **and small claims garnishee service fee**".

Page 4, between lines 13 and 14, begin a new line block indented and insert:

**"(3) From a party that has named more than three (3) garnishees or garnishee defendants, a garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant in excess of three (3).**

**(4) From a party adding a garnishee or garnishee defendant, a garnishee service fee of ten dollars (\$10) for each garnishee or garnishee defendant added to the action. However, a clerk may not collect a garnishee service fee for the first three (3) garnishees or garnishee defendants named in the action."**

Page 4, between lines 15 and 16, begin a new paragraph and insert:  
"SECTION 7. IC 33-37-4-4, AS AMENDED BY P.L.176-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).
- (5) A public defense administration fee (IC 33-37-5-21.2).
- (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- (7) A judicial salaries fee (IC 33-37-5-26).
- (8) A court administration fee (IC 33-37-5-27).
- (9) A service fee (~~IC 33-37-5-28~~) **(IC 33-37-5-28(b)(1) or**

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**IC 33-37-5-28(b)(2)).**

**(10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).**

SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.176-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6),

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IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor **the following:**

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(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

**(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.**

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under ~~IC 33-37-5-28~~ **IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)** shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

**(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:**

**(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.**

**(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.**

SECTION 9. IC 33-37-7-8, AS AMENDED BY P.L.176-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The clerk of a city or town court shall

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distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-4(a) (civil costs fees).
- (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution,

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interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the following:

(1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

**(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).**

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26 as the city or town share."

Renumber all SECTIONS consecutively.

(Reference is to HB 1158 as printed January 24, 2006.)

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